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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,013	11/21/2001	James E. Johanson	8945-25 (149194)	2419

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EXAMINER

LE, TAN

ART UNIT PAPER NUMBER

3632

DATE MAILED: 08/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/990,013

Applicant(s)

JOHANSON ET AL.

Examiner

Tan Le

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This is the first office action for serial number 09/990,013, Shipping Bases for Appliances, filed on 11/21/01. This application contains 20 claims numbered 1-20.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 12 and 20 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, Applicants claim the bottom edge of the ribs is separated from the bottom wall of the socket as recited in claims 12 and 20. However, in specification disclosure does not support this claimed feature.

.The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "sufficient distance" in claim 6 (line 6) is a relative term which renders the claim indefinite. The term "sufficient distance" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 1-3 and 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,294,114 to Muirhead.

Regarding claims 1-3, Muirhead discloses a base (Fig. 8) comprising: a frame having four sides having outer peripheral edge portions of the base wherein the outer peripheral edge of each of the side of the frame is recessed relative to the inner portions of the base along the corresponding side creating a gap between the base and the adjacent portions of the above structure along each side thereof. Muirhead also discloses a plurality of sockets defining open-ended wells in the frame.

The subject matter of claims 15-16 are therefore also disclosed by Muirhead.

Claims 1-3 and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,758,855 to Jordan et al.

Regarding claims 1-3, Jordan et al. discloses a base (Fig. 1) comprising: a frame having four sides having outer peripheral edge portions of the base, wherein the outer peripheral edge of each of the side of the frame is recessed relative to the inner portions of the base along the corresponding side creating a gap between the base and the adjacent portions of the above structure along each side thereof. Jordan et al. also discloses a plurality of sockets (70, 72) defining open-ended wells in the frame.

The subject matter of claims 15 -16 are therefore also disclosed by Jordan et al.

Claims 1-7, 9, 11, 13-17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,950,545 to Shuert.

Regarding claims 1-7, Shuert discloses a base (Fig. 1) comprising: a frame (10) having four sides having outer peripheral edge portions of the base, wherein the outer peripheral edge of each of the side of the frame is recessed (18) relative to the inner portions of the base along the corresponding side creating a gap between the base and the adjacent portions of the above structure along each side thereof. Shuert also discloses a plurality of sockets (12) defining open-ended wells in the frame wherein, each of a socket comprises a plurality of flexible ribs (12i) projecting inwardly and vertically positioned from the internal side wall of the well.

The subject matter of claims 9, 11, 13 -17 and 19 are therefore also disclosed by Shuert.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shuert in view of Fig. 11 as submitted by Applicant as prior art.

Regarding claims 8, 10 and 18, Shuert teaches structure substantially as claimed as discussed above, the only difference being that the ribs are not beveled at their upper edges adjacent the open end of the socket. However, the admitted prior art of Fig. 11 teaches that the ribs are beveled (18) at their upper edges adjacent the open end of the socket.

It would have been obvious and well within the level of ordinary skill in the art to modify the ribs of Shuert to include ribs that are beveled at their upper edges adjacent the open end of the socket, as taught by prior art since such beveled ribs are conventional alternative structures used in the same intended purpose to facilitate the insertion of the feet thereby providing structure as claimed.

Claims 4-11, 13-14 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jordan et al or Muirhead as applied above in view of prior art (Fig. 11).

Jordan et al. or Muirhead teaches structure substantially as claimed as discussed above, the only difference being that each socket does not comprise a plurality of

flexible ribs projecting inwardly and vertically positioned from the internal side wall of the well and the ribs are beveled at their upper edges adjacent the open end of the socket to facilitate insertion of the foot.

The admitted prior art teaches that each socket comprises a plurality of flexible ribs (18) projecting inwardly and vertically positioned from the internal side wall of the well, and the ribs are beveled at their upper edges adjacent the open end of the socket to facilitate insertion of the foot.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the teaching of the prior art into sockets of Jordan et al. or Muirhead, because this teaching would have enabled the sockets of Jordan or Muirhead to assist the insertion of the feet into the sockets as well as to allow the feet to deflect when inserted into the sockets.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

3,902,692 to Skinner  
5,921,646 to Hwang  
5,894,803 to Kuga  
5,667,065 to Fahrion

The above patents disclose various types of pallets.

6. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Tan Le, whose telephone number is 703.305.8244. The Examiner can normally be reached on Tuesday through Thursday, 9:00-6:00 and alternating Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 872-9326 for official communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Group receptionist at 703.308.2168.

*R*

**TAN LE  
PATENT EXAMINER**

AU 3632  
August 23, 2002



**LESLIE A. BRAUN  
SUPERVISORY PATENT EXAMINER**